

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in Regular Session on Monday, May 19, 2008 at 3:30 p.m. in the Commissioners Board Room, Avery County Administrative Complex, Newland, NC.

Members Present: Kenny Poteat, Chairman; Susan Pittman, Vice-Chair; Phyllis Forbes; and Scott Heath

Members Absent: Dan South

Call To Order

Chairman Poteat called the meeting to order at 3:30 p.m.

Chairman Poteat offered prayer.

Public Comments

There were no public comments. Scott Heath stated that the County Manager would probably receive a telephone call from the owner of Alpine Ski Center about the Puckett House on the land in Banner Elk obtained for the new Banner Elk School.

The County Manager asked to be allowed to amend the agenda to discuss the Solid Waste Contract with the City of Bristol, Virginia in the County Manager's Report section. The County Manager stated that staying within the policy of the Board that the agenda cannot be amended without the full seat of the Board being in attendance but the Board could, given the circumstances, waive that policy for this particular incidence. Chairman Poteat advised the Board that this policy may need to be examined in the future.

Motion by Scott Heath and Second by Phyllis Forbes to amend the agenda to add the Solid Waste Contract with the City of Bristol, Virginia in the County Manager's Report section. Motion unanimously approved by members present (4-0).

Board Appointments

High Country Workforce Development Board Appointment

The County Manager stated there was an upcoming vacancy on the High Country Workforce Development Board and Mr. Sam Ray is willing to continue to serve on this Board. This would be a four year term. Chairman Poteat commented on the 95% attendance rate that Mr. Sam Ray has.

Motion by Phyllis Forbes and Second by Susan Pittman to reappoint Mr. Sam Ray to the High Country Workforce Development Board for a four year term. Motion unanimously approved by members present (4-0).

County Manager Updates – Robert Wiseman

Legislative Update

The County Manager stated in the Legislative Update from the NCACC there is reference to a bill introduced by Representative Pryor Gibson from Anson County that would repeal the County's ability to levy a Transfer Tax and if that bill is successful no County in the State of North Carolina will have the authority to put the Transfer Tax issue on a referendum. Chairman Poteat stated that this bill would repeal the land transfer tax. Phyllis Forbes stated that this bill would take the opportunity away from the people to choose. The County Manager advised that, if the Board agreed, by the next meeting a Resolution be adopted to express Avery County's opposition to that legislation. Scott Heath questioned if the repeal happened with the transfer tax would the County still have the option of the sales tax. The County Manager stated that the sales tax brings in approximately ½ million dollars and the transfer tax would bring in approximately 1.3 million dollars.

Employment Security Commission Lease

The County Manager stated that the Employment Security Commission lease expired on April 30, 2008. The State has not renewed the lease yet and sent a letter stating that due to the current budget situation a decision on the Newland Office has not yet been made. The County Manager advised there is a termination clause that states with 60 days notice the contract would be terminated. The County Manager stated there is evidently a move to close some of the branch offices and this would cause the people in Avery County to have to travel to Boone or Spruce Pine. The County Manager advised the ESC lease was currently a month by month lease.

Deed Transfer from Avery County to Town of Elk Park

The County Manager stated that the County owns a piece of property between Cranberry and Cranberry Gap on Hwy 19E. The County owns title to about 1/3 of an acre on Hwy 19E and this land is essential to the development of the water system in Cranberry. The County Manager stated that all of the proper documents have been filed by Mr. Doug Hall, the easements have been signed, and the contractor has been hired. The County Manager advised that this property was limited in use and no dwelling could be located on this piece of property. The County Manager stated that as soon as part B of the application has been completed and as soon as the County transfers title to the Town of Elk Park, the project can begin. Scott Heath asked if there was a contingency on the property that if the water tank ceases to be the land would revert back to the County. Michaelle Poore, County Attorney, advised there was not a reversion clause in the deed but if the Board wanted to include that it could be easily done.

**Motion by Susan Pittman and Second by Scott Heath to Adopt the Resolution Authorizing the Conveyance of Certain Real Property to the Town of Elk Park, North Carolina with the certain property being 0.31 acre parcel located in the Cranberry Community, the same being of record in Book 407, Page 2233 of the Avery County Registry and to further state that a reversion clause should be added to the deed.
Motion unanimously approved by members present (4-0).**

Avery Animal Shelter Lease and Easement Agreement

The County Manager stated that the County Attorney had prepared the Lease Agreement and Easement Agreement for the Avery Animal Shelter and these documents were sent to DiSanti, the law firm for the Friends of Avery Animal Shelter, to be examined. Discussion regarding the Lease and Easement Agreement. Chairman Poteat commented about the \$1,000,000 liability insurance that the tenant must obtain on this property. Scott Heath questioned if the \$1.00 was not exchanged would that cause problems with the lease as far as liability issues. The County Attorney stated that the \$1.00 was a nominal consideration with other factors being considered also.

Motion by Phyllis Forbes and Second by Scott Heath to approve and execute the Lease Agreement and Easement Agreement with Avery Animal Shelter. Motion unanimously approved by members present (4-0).

Rachel Deal stated that the contractor was ready to start breaking ground on the Avery Animal Shelter. Ms. Deal said a projected timeline would be to have the Animal Shelter completed in 2009. Ms. Deal advised that the contributors to the Avery Animal Shelter would like to try to help with some of the projects at Heritage Park also. Phyllis Forbes stated that the Board appreciated Ms. Deal's work on the Animal Shelter project and the other projects in the County that she is involved with.

Solid Waste Contract with the City of Bristol, Virginia

The County Manager stated that Buddy Norris, Solid Waste Director and the County Manager went to the City of Bristol, Virginia to renegotiate the Solid Waste Contract for five more years. The County Manager said the place where the landfill is located is an open pit which was used for years as a gravel pit for Vulcan and there are literally millions of cubic yards of airspace in the pit and it is anticipated that for at least 20 years or probably more the landfill would operate. The County Manager stated that the County has a good working relationship with the City of Bristol, Virginia. At this time, the County is paying \$20.25 a ton at the landfill. For the first three years of the five year contract there will be a 3% increase and this will not change for 3 years and will equate to approximately \$20.85 per ton and then for the fourth and fifth year there would be a 1% per year increase which would bring it in the fourth year to \$21.06 a ton and the fifth year it would be \$21.27 per ton per year. Chairman Poteat stated that even at the end of 5 years there would only be an approximately \$1.00 increase per ton. The County Manager requested that the Board give the Chairman the ability to execute this contract as soon as legal counsel has reviewed the contract. The County Manager stated that before the 2007/2008 fiscal year ends, the Solid and Hazardous Waste Management Branch will initiate a mandatory \$2.00 per ton fee that will be collected by the State. The Board will have to decide whether to absorb that or raise the tippage fee at the tipping station. Chairman Poteat commented that the Board would need to address the issue of the mandatory \$2.00 per ton fee in the near future.

Motion by Susan Pittman and second by Scott Heath to allow the County to enter into a contract after the perusal of the County Attorney and approval by the County Attorney and allow the Chairman to sign the contract. Motion unanimously approved by members present (4-0).

Housing

Phyllis Forbes stated there were many people looking for low income housing and affordable housing which the County has a deficit of. The County Manager advised the first step would be to approach the Northwest Regional Housing Authority. Ms. Forbes stated the Board should pursue the housing issue and asked the County Manager to look into this.

County Attorney Report – Michaelle Poore

The County Attorney stated that at the next meeting the Board will be looking at the Farmland Preservation Ordinance. The County has an existing ordinance which covers voluntary agricultural districts. The Agriculture Advisory Board has been working for revisions to the ordinance and will come before the Board at the next regular meeting. The County Attorney advised that any landowner that has a farm participating in the present use valuation for agriculture, horticulture or forestry, the landowner can voluntarily sign up for the program. Scott Heath stated that the County is diversified with tourism and with agriculture and with the development going on strong it would be wise to protect farmland areas as much as possible.

Agenda Consent Items

The County Manager referred to an item in the Agenda Consent regarding a House Bill to transfer funding of secondary roads to the County. The County Manager stated that to maintain secondary roads in Avery County using the figures that the State had given would increase the tax rate by approximately 0.29 cents.

Loved Ones Day Care Center

The County Manager advised that the best location for the former Loved Ones Day Care mobile unit would be the land that the County is purchasing for the Recreation Department. The grant was approved for the purchase of the land and this is a reimbursable grant that the County will pay the entire purchase price and then get reimbursed after the proper paperwork has been submitted.

Upcoming Meetings

The next budget workshop is Tuesday, May 27, 2008 at 3:30 p.m. The next Regular meeting will be June 2, 2008 and a public hearing for the budget will be held June 16, 2008 at 4:30 p.m. There is a public hearing for the expansion of the landfill on June 16, 2008 at 3:50 p.m. The clerk is to poll the Commissioners if they would like to attend the County Assembly Day on June 10, 2008.

Adjourn

Motion by Scott Heath and second by Phyllis Forbes to adjourn this meeting at 4:40 p.m. Motion unanimously approved by members present (4-0).

Kenny Poteat, Chairman
Avery County Board of Commissioners

ATTEST: _____
Cindy Turbyfill, Clerk